

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN
DISTRICT OF TENNESSEE, WESTERN DIVISION AT MEMPHIS

FILED BY *JSN* D.C.
05 SEP 28 PM 3:13

MICHAEL LUSTER,

Plaintiff,

vs.

**CIVIL ACTION NO. 03-2244
MA/AN**

**ML TENNESSEE APARTMENTS, LP, and
EQUITY RESIDENTIAL PROPERTIES
MANAGEMENT CORPORATION,**

Defendants.


DEFENDANTS' NOTICE OF APPEAL

COME NOW the Defendants, ML Tennessee Apartments, LP, and Equity Residential Properties Management Corp., through the undersigned counsel and pursuant to Rule 3 of the Federal Rules of Appellate Procedure, and file this Notice of Appeal. Defendants file this appeal from (1) the Court's Order denying Defendants' Motion for New Trial, or, In the Alternative, Judgment as a Matter of Law, entered on September 7, 2005, and (2) the Judgment entered on September 9, 2005. This appeal is taken from the rulings of the United States District Court for the Western District of Tennessee, Western Division at Memphis, to this Sixth Circuit Court of Appeals.

WHEREFORE, having filed their Notice of Appeal, Defendants respectfully request that the Clerk of Court, pursuant to Rule 3(d) of the Federal Rules of Appellate Procedure, send copies of this Notice of Appeal and all docket entries in this cause to the Clerk of the Sixth Circuit Court of Appeals.

Respectfully submitted,

SPICER, FLYNN & RUDSTROM, PLLC



ROBERT D. FLYNN, #7941

Attorney for Defendants

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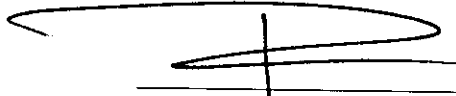
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon counsel for Plaintiff, Danese K. Banks, The Cochran Firm, 2600 One Commerce Square, Memphis, TN 38103, via U.S. Mail, postage prepaid, on this the 28 day of September, 2005.



ROBERT D. FLYNN



Notice of Distribution

This notice confirms a copy of the document docketed as number 111 in case 2:03-CV-02244 was distributed by fax, mail, or direct printing on September 30, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT